

KARLHEINZ TYLER
Claimant

PHILIPS ELECTRONICS NORTH AMER.
Respondent

XL SPECIALTY INSURANCE
Insurance Carrier

Respondent argues that claimant's current shoulder complaints are the natural and probable consequence of his 2001 shoulder injury. Respondent next argues that claimant's shoulder condition is a temporary aggravation of his previous condition. And finally, respondent argues that claimant failed to give timely notice and therefore he is not entitled to compensation benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

The ALJ's Award sets out findings of fact and conclusions of law that are detailed, accurate and supported by the record. It is not necessary to repeat those findings and conclusions herein. The Board adopts the ALJ's findings and conclusions as its own as if specifically set forth herein except as hereinafter noted. Specifically, at page 9 of the Award the ALJ references the issue of natural and probable consequence and concludes that he need not reach that issue. The Board disagrees and notes the ALJ's finding that claimant suffered an accidental injury arising out of and in the course of his employment necessarily determines that claimant's current condition is not a natural and probable consequence of his 2001 shoulder injury. Stated another way, claimant suffered a new work-related accident on October 22, 2008.

Claimant argues that he met his burden of proof that he suffered permanent impairment as a result of his accidental injury. The ALJ's Award contains a detailed analysis of claimant's and respondent's arguments and a well reasoned decision that claimant suffered a work-related accident but did not suffer any permanent impairment as a result of that accidental injury. The Board agrees and affirms the Award in all respects except as previously noted.

AWARD

WHEREFORE, it is the decision of the Board that the Award of Administrative Law Judge Bruce E. Moore dated December 16, 2009, is affirmed.

IT IS SO ORDERED.

Dated this 30th day of June 2010.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Scott M. Price, Attorney for Claimant
Dallas Rakestraw, Attorney for Respondent and its Insurance Carrier
Bruce E. Moore, Administrative Law Judge